

November 4, 2004

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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Seattle, Washington 98104
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REPORT AND RECOMMENDATION TO THE METROPOLITAN KING COUNTY COUNCIL

SUBJECT: Department of Transportation File no. **V-2471**
Proposed Ordinance no. **2004-0403**

IOAN and DORINA MORAR
Road Vacation Petition

Location: A portion of 136th Avenue Southeast

Petitioners: **Ioan & Dorina Morar**
13604 Southeast 107th Place
Renton, WA 98059
Telephone: (425) 254-8820

King County: Department of Transportation, Road Services Division, *represented by*
Dennis Gorley
201 S. Jackson Street
Seattle, WA 98104-3856
Telephone: (206) 296-6522
Facsimile: (206) 296-0567

SUMMARY OF RECOMMENDATIONS:

| | |
|---------------------------|-----------------------|
| Department's Preliminary: | Approve road vacation |
| Department's Final: | Approve road vacation |
| Examiner: | Approve road vacation |

DEPARTMENT'S REPORT:

The Department of Transportation's written report to the King County Hearing Examiner for Item No. V-2472 was received by the Examiner on September 8, 2004. A supplemental report was received on October 26, 2004.

PUBLIC HEARING:

After reviewing the Department of Transportation's Report and examining available information on file with the petition, the Examiner conducted a public hearing on the subject as follows:

The hearing on Item No. V-2472 was opened by the Examiner at 9:37 a.m., on September 22, 2004, in the Hearing Examiner's Conference Room, 400 Yesler Way, Seattle, WA 98104, and was continued for administrative purposes. A supplemental report and additional exhibits were received on October 26, 2004, and the hearing was closed on that date.

FINDINGS, CONCLUSIONS & RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:
Road name and location: 136th Avenue SE, north of SE 107th Place & South of SE 107th St. (if extended)
Right of way classification: "C"
Area: 3,485 sq. ft.
Compensation: \$17,878.05
2. Except as provided below, the Examiner adopts and incorporates herein by this reference the facts set forth in the Department of Transportation's report to the King County Hearing Examiner for the September 22, 2004, public hearing and the statement of facts contained in Proposed Substitute Ordinance No. 2004-0403. The Department's report and Proposed Substitute Ordinance No. 2004-0403 will be attached to those copies of this report and recommendation that are submitted to the Metropolitan King County Council.

The King County Roads Maintenance Division and King County Water and Land Resources Department have reconsidered their earlier requests that a drainage easement be retained on the subject property, and have determined that no drainage easement is needed. Consequently, the Road Services Division has modified its prior recommendation that vacation of the right-of-way be subject to a drainage easement over the westerly 10 feet of the vacation area. The final recommendation of the Road Services Division is that the road vacation be granted.

CONCLUSIONS:

1. The road subject to this petition is useless as part of the King County road system, and the public will be benefited by its vacation.
2. The Notice of Hearing on the report of the Department of Transportation was given as required by law, and a hearing on the report was conducted by the King County Hearing Examiner on behalf of the King County Council.
3. Maps showing the vicinity of the proposed vacation and the specific area to be vacated are Attachments 1 and 2 to this Report and Recommendation.

RECOMMENDATION:

APPROVE proposed Substitute Ordinance No. 2004-0403, a copy of which is attachment 3 to this report and recommendation.

RECOMMENDED this 4th day of November, 2004.

James N. O'Connor
King County Hearing Examiner *pro tem*

TRANSMITTED this 4th day of November, 2004, to the following parties and interested persons:

| | | |
|---|---|--|
| Comcast Attn: Sherill Ulery 410 Valley Ave. NW Puyallup WA 98371 | Don Dauphiny Qwest Communications 1550 Newport Way NW Issaquah WA 98027 | Judy McCollum Puget Sound Energy 411 - 108th Ave. NE Bellevue WA 98009-9734 |
| Ioan & Dorina Morar 13604 SE 107th Pl. Renton WA 98059 | Renton Utilities Renton City Hall, Flr. 6 1055 S. Grady Way Renton WA 98055 | Neil DeGoojer DNRP/WLRD MS KSC-NR-0600 |
| Nancy Gordon KCDOT/D&C MS KSC-TR-0431 | Dennis Gorley KCDOT/Rd. Serv. MS KSC-TR-0231 | David Gualtieri KCDOT/CIP & Planning MS KSC-TR-0317 |
| Denise Hauck KC Dept. of Exec. Svcs. MS ADM-ES-0500 | Rich Hudson DDES/LUSD Current Planning MS OAK-DE-0100 | Fatin Kara KC DOT/Rd. Svcs. Div. MS KSC-TR-0222 |
| Roderick E. Matsuno KC DOT/MAINT. OP. MS RSD-TR-0100 | Paulette Norman KCDOT/RD SERV. MS KSC-TR-0231 | Robert Nunnenkamp KC Parks & Recreation MS KSC-NR-0700 |
| Lydia Reynolds-Jones KC DOT/RD SERV. MS KSC-TR-0231 | Charlie Sundberg Office of Cultural Res. Landmarks & Heritage Prog. MS STR-CR-0200 | |

NOTICE OF RIGHT TO APPEAL
AND ADDITIONAL ACTION REQUIRED

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) *on or before November 18, 2004*. If a notice of appeal is filed, the original and 6 copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council *on or before November 29, 2004*.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office

of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within 14 calendar days of the date of this report, or if a written appeal statement and argument are not filed within 21 calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council on a recommendation of the Examiner shall be final and conclusive unless within twenty-one (21) days from the date of the action an aggrieved party or person applies for a writ of certiorari from the Superior Court in and for the County of King, State of Washington, for the purpose of review of the action taken.

MINUTES OF THE SEPTEMBER 22, 2004, PUBLIC HEARING ON DEPARTMENT OF TRANSPORTATION FILE NO. V-2471.

James N. O'Connor was the Hearing Examiner in this matter. Participating in the hearing was Dennis Gorley, representing the Department; and the petitioner Ioan Morar.

The following exhibits were offered and entered into the record at the public hearing on September 22, 2004:

- Exhibit No. 1 Department of Transportation staff report for 9/22/04 with 14 attachments
- Exhibit No. 2 Petition transmittal letter Anne Noris dated 4/04/03
- Exhibit No. 3 Copy of filing fee –check #1160 from petitioners
- Exhibit No. 4 Letter to petitioner dated 4/17/03
- Exhibit No. 5 Vicinity map of proposed vacation area, Thomas Bros. page 626
- Exhibit No. 6 Map depicting proposed vacation area
- Exhibit No. 7 Letter to petitioners re: vacation approval and compensation
- Exhibit No. 8 Compensation worksheet dated 4/05/04
- Exhibit No. 9 Transmittal letter to Council Clerk dated 5/25/04
- Exhibit No. 10 Copy of compensation check and deposit receipt
- Exhibit No. 11 Ordinance transmittal letter to Council Chair dated 8/16/04
- Exhibit No. 12 Proposed ordinance 2004-0403
- Exhibit No. 13 Notice of Hearing from the Clerk of the Council
- Exhibit No. 14 Affidavit of posting dated 9/20/04
- Exhibit No. 15 Letter to petitioners dated 9/02/04 re: 10-foot drainage channel easement
- Exhibit No. 16 Revised ordinance

The following exhibit was entered into the record on October 13, 2004:

- Exhibit No. 17 Affidavit of publication

The following exhibits were admitted on October 26, 2004:

Exhibit No. 18 October 19, 2004 memorandum from Dennis Gorley

Exhibit No. 19 October 13, 2004 email from Tom Lew

Exhibit No. 20 October 13, 2004 email from Bill Hintz

JNOC:gao

V-2471 RPT

Attachments